

1 that?

2 A Yeah.

3 Q Do you know what that \$5,000 is related to?

4 A No, not at this time. Right here, with this one  
5 sheet here, no.

6 Q How could you determine what that \$5,000 --

7 A I would look into the general ledger as one  
8 source.

9 Q What other sources would you need to look at?

10 A Well, if that wasn't sufficient information, I'd  
11 look at the, I'd look at the invoice.

12 Q Mr. Callahan, does ITV Direct own any patents?

13 A I do not know. I have not recorded any costs to  
14 purchase any development of any patent.

15 Q Do you know who would know if ITV Direct owns any  
16 patents?

17 A No.

18 Q There's no one at ITV Direct that would be able to  
19 confirm or deny that?

20 A I don't know that. I don't know who would know of  
21 their existence, and I don't know who, you know -- an  
22 officer of the company, yeah, but you know, to my knowledge,  
23 there has never been, you know, and we don't own any patents  
24 because they would have had to have been paid for, and I  
25 have had (unintelligible) flow through me for this billing,

1 so therefore, I would say they don't own any patents.

2 Q What about any trademarks; do you know if ITV owns  
3 any trademarks?

4 A I do not, no.

5 Q Do you know who would know at ITV Direct as to  
6 whether or not it owns trademarks?

7 A No, but again, if they had flowed through, you  
8 know, the books that I managed anyway, it would have had to  
9 for billings and, you know, I don't have any that I've ever  
10 seen.

11 Q How about copyrights; does ITV Direct own any of  
12 those?

13 A Not to my knowledge, no.

14 Q Do you know who at ITV Direct would know whether  
15 it owns any copyrights?

16 A No, other than an officer.

17 MR. SILVERMAN: Your Honor, if I could take a  
18 break for just a moment, I'd like to follow up on the issue  
19 I raised at the very outset of the hearing that has to do  
20 with the subpoenas that were issued for the officers of the  
21 company.

22 THE COURT: Okay.

23 MR. SILVERMAN: I understand that Mr. Callahan  
24 might not know some of the answers to the questions that  
25 I've imposed; however, that was the reason why we issued the

1 subpoenas to have the officers here who would have been able  
2 to testify as to whether or not this intellectual property  
3 --

4 THE COURT: You subpoenaed the officers, and they  
5 did not appear; is that --

6 MR. BROOKS: They weren't served with subpoenas,  
7 your Honor. Apparently, they were left off with somebody --  
8 some other employee of the company.

9 THE COURT: I thought the company didn't have any  
10 employees.

11 MR. BROOKS: The subpoenas were served -- there's  
12 another company, Direct Marketing Concepts, which does have  
13 employees that occupies the same premises. My understanding  
14 is that the subpoenas were left off with an employee of  
15 Direct Marketing Concepts.

16 THE COURT: So they knew about it?

17 MR. BROOKS: Excuse me?

18 THE COURT: They knew about it?

19 MR. BROOKS: I don't know if they knew about it.  
20 I got an employee for an employee. Rule 45 says service of  
21 a subpoena has to be in hand. They weren't served in hand,  
22 and they're not here because they haven't been served.

23 THE COURT: If we need to --

24 MR. SILVERMAN: Your Honor?

25 THE COURT: -- continue this, we'll continue it.

1 MR. SILVERMAN: I have the subpoenas.

2 THE COURT: Yeah, but if it wasn't served --

3 MR. SILVERMAN: Well, your Honor, they were  
4 accepted by the general counsel at ITV who identified  
5 himself as such to the processor.

6 MR. BROOKS: That's simply not accurate, your  
7 Honor, from my conversation with their counsel. He got a  
8 telephone call that there was a process server down in the  
9 lobby. He went down, identified himself. The process  
10 server said, here, handed him the subpoenas and left, so.

11 (Pause.)

12 THE COURT: All right. I'll accept this --

13 MR. SILVERMAN: In any event, your Honor --

14 THE COURT: -- and we'll deal with it at the end  
15 of the hearing on how you want to proceed. Have you deposed  
16 them already?

17 MR. SILVERMAN: We have deposed Mr. Callahan --

18 THE COURT: Right.

19 MR. SILVERMAN: -- your Honor.

20 THE COURT: How about the principals?

21 MR. SILVERMAN: They've been -- we have not  
22 deposed the principals, your Honor. There have been several  
23 events in the case that have superseded further depositions.  
24 We do have a separate proceeding going on that is directly  
25 against Direct Marketing Concepts, the other company that

1 Mr. Brooks just mentioned, on the theory that the assets  
2 were probably transferred and/or funneled to DMC to avoid  
3 this judgment, but --

4 THE COURT: And that's not pending in this action?

5 MR. SILVERMAN: That is pending before Judge  
6 Tauro, your Honor.

7 MR. BROOKS: Separate case, your Honor.

8 THE COURT: A separate issue.

9 MR. BROOKS: Yeah.

10 THE COURT: Okay.

11 BY MR. SILVERMAN:

12 Q Mr. Callahan, does ITV Direct have any accounts  
13 receivable; does anyone owe ITV any money?

14 A Until this time --

15 Q Yes.

16 A -- today? I would have to refresh my memory.

17 Q What document would help refresh your memory?

18 A A general ledger (unintelligible).

19 Q Does ITV Direct have any pending claims against  
20 any entities?

21 A A legal claim or?

22 Q Sure. Let's start with legal claims?

23 A I don't know.

24 Q You don't know?

25 A No. I don't handle legal matters. To my

1 knowledge, no.

2 Q Who would know at ITV Direct?

3 A One of the officers, I would think.

4 Q Are you familiar with the lawsuit that ITV  
5 initiated against the Federal Trade Commission in September  
6 of 2005?

7 A I am not.

8 Q Are you familiar with the lawsuit that ITV  
9 initiated against a company called The Electronic Retailing  
10 Association in February of this year?

11 A ITV Direct initiated a lawsuit?

12 Q Yes.

13 A No.

14 Q Are you familiar with it?

15 A No.

16 (Pause.)

17 BY MR. SILVERMAN:

18 Q Mr. Callahan, I've put before you what is a docket  
19 sheet, a civil action cover sheet and a complaint in the  
20 matter ITV Direct versus The Electronic Retailing  
21 Association; do you see that, Mr. Callahan?

22 A Yes, for the first time.

23 Q And at the back of the package, there's also a  
24 document that is the first amended complaint and demand for  
25 jury trial in the same action?

1 A Okay. I see that, yeah.

2 Q And you'll see, at the very top of that document,  
3 there's a stamp that indicates that that document was filed  
4 on February 27, 2006; do you see that?

5 A No, not yet. The, the second to the last page --  
6 second sentence --

7 Q That document right there.

8 A Yes. February 27th file date of '06, I see it.

9 Q And can you identify for me who the plaintiff is  
10 in that action?

11 A ITV Direct Con. (phonetic).

12 Q And this is the first time that you, that you're  
13 aware of this lawsuit; correct, Mr. Callahan?

14 A Yes.

15 Q And you're not aware of this lawsuit because  
16 you've never seen any expense for the initiation of this  
17 lawsuit; correct?

18 A No. I don't know if that's the reason I'm not  
19 aware of it.

20 Q Well, if ITV Direct --

21 A But I can tell you that I haven't seen any  
22 expenses that I can identify after February 27th or before  
23 related to this case.

24 Q So, the legal services involved in initiating this  
25 case have not been paid by ITV Direct over the last year;

1 correct?

2 A I have not paid legal expense related to this  
3 case, yes, that would be, that would be correct, yes.

4 Q And, Mr. Callahan, earlier you stated that over  
5 the last year, there's been absolutely no business activity  
6 by ITV Direct; correct?

7 A Yeah. There's been no, no benefit for that. We  
8 haven't incurred expenses, so maybe I should clarify that.  
9 In addition, you know, just because an expense is not  
10 recognized does not mean that it will not be recognized in  
11 the future, the difference between accrual or a cash basis  
12 where you would recognize that when you take it.

13 Q And presumably, you're hoping that the expense for  
14 your services gets recognized at some point; correct?

15 A Of course, yeah.

16 Q Because it has not yet been paid?

17 A Do you know that; is that a question?

18 Q Well, that's what you testified to earlier,  
19 Mr. Callahan.

20 A On the, on July 27th or July 26th, there was no  
21 recognition of my expense.

22 Q Do you have any reason to think it's been  
23 recognized since that time?

24 A Yes.

25 Q So, there's an updated financial that would



1 identify the cost that ITV has incurred for your services?

2 A No. I don't know that. I don't know that to be  
3 true. There's not -- there haven't been new financials  
4 printed out for ITV Direct, you know, since this date here.  
5 You know?

6 Q Mr. Callahan, you stated that ITV does not hold  
7 any inventory; correct?

8 A That's correct. ITV Direct does not hold any  
9 inventory.

10 Q And over the last year, ITV has not generated any  
11 revenue from any activity; correct?

12 A I would, I would say, no, (unintelligible) put  
13 before the activity before January 1st of this year, but I  
14 would say, no, that there has been no revenue.

15 Q And you stated that ITV's business was purchasing  
16 media; correct?

17 A Primary business was planning and directing and  
18 placing media, yes.

19 Q ITV does not actively sell any products; correct?

20 A ITV Direct does not sell products, that's correct.

21 Q Can you explain to me why, in a document filed  
22 with this court in February of 2006, earlier this year, ITV  
23 represented, and I quote from Paragraph 10, on Page 3 of the  
24 amended complaint, "ITV is engaged in the business of  
25 advertising and selling consumer products, including dietary

1 supplements through feature length promotions known as  
2 informercials"?

3 A What was the front part of the question?

4 Q Well, Mr. Callahan, can you explain how it is that  
5 you, as the account, believe that ITV does not conduct any  
6 business besides purchasing media, has not conducted any  
7 business over the last year of any substance, but yet it is  
8 filing papers with this court representing that it is  
9 actively advertising and sell products?

10 A I, I don't know what you have before you, but I  
11 don't know how that can be, if that's accurate.

12 Q Mr. Callahan, you know what I have before me.  
13 It's the document --

14 A No. I don't --

15 Q -- that I presented to you?

16 A -- what page. What page were you quoting from,  
17 please?

18 Q If you'd take a look at the first amended  
19 complaint, and actually, I refer you to Paragraph 5, on  
20 Page 2. This is in the back of the pile that I gave you.

21 A On the back of the pile, Page 5. Sorry.

22 (Pause.)

23 What's --

24 Q Page 2, Paragraph 5.

25 A Oh.

1 Q This is a document that was filed by your counsel,  
2 Mr. Brooks. It states, "ITV is engaged in the business of  
3 advertising and selling consumer products, including dietary  
4 supplements, through feature length promotions known as  
5 informercials. Among other products, ITV sells a popular  
6 dietary supplement known as C-Veg."

7 A Okay. Once again, the question is?

8 THE COURT: What is it, what do we have here,  
9 complaint and an amended complaint?

10 MR. SILVERMAN: Yes, your Honor. What we've done  
11 is --

12 THE COURT: I've got it. I'm sorry.

13 BY MR. SILVERMAN:

14 Q That's news to you; correct, Mr. Callahan?

15 A No. Can you just restate -- I'm (unintelligible)  
16 Could you restate the question, please.

17 Q Do you dispute the statements in this amended  
18 complaint, Mr. Callahan?

19 A Regarding Page 2, No. -- Paragraph 5? ITV Direct  
20 does not sell any product.

21 Q So that would be a misrepresentation; correct,  
22 Mr. Callahan?

23 (Pause while witness reviews document.)

24 A It's not accurate, according to my understanding,  
25 no.

1 Q And you're the ITV representative that's here to  
2 testify about the business activities of ITV Direct;  
3 correct?

4 A Yes.

5 Q And it seems, Mr. Callahan, that you're not very  
6 familiar with ITV's business activities; is that fair to  
7 say?

8 A No.

9 Q Mr. Callahan, you're aware of the fact that ITV  
10 Direct appealed the judgment obtained by Cappseals in this  
11 case; correct?

12 A Yeah.

13 Q Is it fair to say that that appeal involved  
14 significant work by the attorneys for ITV Direct?

15 A Of course, yes.

16 Q Is it fair to say that they didn't perform those  
17 services for free; right?

18 A Yeah.

19 Q I've put before you, Mr. Callahan, what is a  
20 docket and the appeal to the First Circuit in the underlying  
21 case. If I could direct your attention to the second to the  
22 last page?

23 A Okay.

24 Q You'll see on that second to the last page an  
25 entry dated January 5, 2006, motion filed by appellant, ITV

1 Direct; do you see that, Mr. Callahan?

2 A Yes.

3 Q And later on, further down the page, on  
4 January 31, 2006, opposition filed by appellant, ITV Direct;  
5 do you see that?

6 A Yes.

7 Q And the very next entry, February 6, 2006, case  
8 argued, and it indicates that Attorney Robertson appeared  
9 for the appellant, ITV Direct; do you see that?

10 A Um-hum.

11 (Pause.)

12 Q Mr. Callahan, you're aware that ITV opposed this  
13 supplementary process hearing; correct?

14 A No.

15 Q I'll represent to you that --

16 A You mean today?

17 Q Today.

18 A No, I was not aware of that.

19 Q I'll represent to you, and I think the Court can  
20 take judicial notice of the fact that an opposition to this  
21 hearing --

22 THE COURT: Well, and I see that counsel's here as  
23 well. Okay.

24 BY MR. SILVERMAN:

25 Q Mr. Callahan, is it fair to say that the services,

1 the legal services, performed by counsel on behalf of ITV  
2 Direct were not performed for free?

3 A That's correct.

4 Q Fair to say that Mr. Brooks expects to be paid for  
5 his services?

6 A Absolutely, yes.

7 Q Are the attorneys for ITV Direct owed any unpaid  
8 invoices for legal services?

9 A I would (unintelligible) yes, sure.

10 Q So they have not been paid for any of the legal  
11 services involved with the PO of the underlying decision in  
12 this case, the initiation of the action against The  
13 Electronic Retailing Association?

14 A I don't know that. I don't know that to be true.  
15 You asked if they'd been, if their, if they're unpaid for  
16 any. I don't know. You're listing off specific matters. I  
17 don't know if they have been paid or if they were unpaid --

18 Q Well, Mr. Callahan --

19 A -- at this time.

20 Q -- all of the services that I've identified so far  
21 in terms of legal work is all work that's been performed in  
22 2006; correct?

23 A January, January 5th was the first reference, two  
24 days into the new year. Could it be possible that it was  
25 performed in another year?

1 Q I'm sorry?

2 A You stated that it was all 2006 activity and I'm  
3 saying your first reference point of a motion by the  
4 appellant, ITV Direct, was two days into the new year.  
5 Could it have been possible it wasn't 2006?

6 Q Well, Mr. Callahan, I've identified work that was  
7 performed in 2006, and what I'm asking you is, do you know  
8 if the attorneys for ITV have been paid for those services?

9 A I don't know at this point, no, and this would not  
10 be a basis for recording of transactions for services, this  
11 docket with an activity note on January 5th.

12 THE COURT: Do you know whether ITV Direct has  
13 been billed for these services?

14 THE WITNESS: I'm sorry. I didn't hear the --

15 THE COURT: Do you know if ITV Direct has been  
16 billed for legal services performed in 2006?

17 THE WITNESS: No, I don't know --

18 THE COURT: Okay.

19 THE WITNESS: -- right now.

20 BY MR. SILVERMAN:

21 Q But, Mr. Callahan, it's fair to say that,  
22 certainly, ITV Direct has not made any payments out of the  
23 accounts that you identified for any of their services;  
24 correct?

25 A To my knowledge, no. There hasn't been -- you

1 know, there's been under \$2,000 in cash for about a year,  
2 no, and they haven't been able to pay anybody.

3 Q So, ITV has not paid for any legal services, and  
4 it's not capable of paying for any legal services; correct?

5 A No. I don't know --

6 THE COURT: Do you know if anybody's paying the  
7 lawyers for this activity?

8 THE WITNESS: Currently, no. I, I know that I  
9 haven't paid any bill for ITV Direct for quite a while.

10 THE COURT: Okay.

11 BY MR. SILVERMAN:

12 Q So, there should be, presumably, significant bills  
13 that have been issued by Mr. Brooks' firm that have gone  
14 unpaid; correct?

15 A Bills, yes. Significant, I, I can't say  
16 significant, but yes, bills.

17 Q And those would appear in the financials of ITV  
18 Direct as accounts payable; correct?

19 A Not necessarily, depending upon the basis of the  
20 financials, if they were cash or accrual.

21 THE COURT: Where do the bills go; who gets the  
22 bills?

23 THE WITNESS: They do cycle through me.

24 THE COURT: All right. Have you --

25 THE WITNESS: So I have --



1 THE COURT: -- seen any bills --

2 THE WITNESS: I haven't seen a bill for quite a  
3 while from any vendors because we're not currently  
4 transacting.

5 THE COURT: Have you see any bills for legal  
6 services in 2006?

7 THE WITNESS: Not that I recall, no.

8 BY MR. SILVERMAN:

9 Q Are you aware as to whether or not the services  
10 performed -- strike that. Mr. Callahan, you understand that  
11 this case is about the fact that ITV did not pay for the  
12 last six shipments of Supreme Greens that was manufactured  
13 by Cappseals under Purchase Order 1101; correct?

14 A Without identifying the Purchase Order 1101, yes,  
15 that's my understanding.

16 Q Well, Mr. Callahan, I believe that -- are the  
17 joint stipulations, have I already presented you with those?

18 MR. BROOKS: They're right here.

19 A No. I just don't recall the number, but yes, I  
20 understand (unintelligible)

21 Q Mr. Callahan, I've put before you a document  
22 entitled Joint Stipulation of Fact, and those are the  
23 stipulations that were agreed upon between the parties; do  
24 you see that document?

25 A Um-hum.

1 Q Mr. Callahan, I refer you to Paragraph 5 of that  
2 document; do you see that?

3 A Um-hum.

4 Q That paragraph states that, on around December 31,  
5 2003, ITV Direct received Invoice No. 21 from Direct  
6 Business Concepts indicating that ITV owed \$300,000 --  
7 \$300,078; do you see that?

8 A Yes.

9 Q Paragraph 8, ITV received Invoice No. 22  
10 indicating that it owed \$185,472; do you see that?

11 MR. BROOKS: Your Honor, I don't really mean to  
12 object, but this has already gone to judgment. I'm not  
13 quite sure why we're asking questions about the underlying  
14 issues in the case, what's already gotten judgment.

15 THE COURT: Just in the interest of time, the  
16 objection is sustained. I can read this, if you want to  
17 just point out certain things.

18 MR. SILVERMAN: Well, your Honor, I'll skip  
19 forward to a related question.

20 (Pause.)

21 BY MR. SILVERMAN:

22 Q Mr. Callahan, I've put before you a document  
23 labeled ITV00291 that is entitled Direct Marketing Concepts  
24 Find Report; do you see that?

25 A Yes.

1 Q Mr. Callahan, if you take a look at the  
2 information at the top of the page, each line item has a  
3 type of bill, a date, a number, the name of who it's coming  
4 from --

5 A Um-hum.

6 Q -- the related PO number and then amount; do you  
7 see that?

8 A Um-hum, and then an additional notation, yes, I  
9 see it.

10 Q And what is the additional notation?

11 A No column label, but it says, not paid on  
12 (unintelligible)

13 Q And there are six entries, the first six entries  
14 at the top of the page, that are labeled as Not Paid;  
15 correct?

16 A Yes.

17 Q And those six entries correspond exactly with the  
18 invoices in the stipulation and the amount of those  
19 invoices; correct?

20 A I don't know. I don't have that --

21 MR. BROOKS: Your Honor --

22 A -- before me. I--

23 THE COURT: Is this disputed?

24 MR. BROOKS: No. It's already gone to judgment.

25 I mean, the judgment is that ITV owes \$1.1 million, or

1 whatever it is.

2 THE COURT: And you agree that it's these six  
3 invoices?

4 MR. SILVERMAN: Yeah.

5 THE COURT: Okay.

6 BY MR. SILVERMAN:

7 Q Now, Mr. Callahan, right below those six unpaid  
8 entries, the entries marked Not Paid --

9 A Um-hum.

10 Q -- do you see an entry dated December 19, 2003; do  
11 you see that?

12 A Um-hum.

13 Q Invoice No. 20; do you see that?

14 A Yes.

15 Q And, again, it says Purchase Order 1101; do you  
16 see that?

17 A Yes.

18 Q That's for \$300,024; correct?

19 A Yes.

20 Q Purchase Order 1101 is the contract that forms the  
21 debt underlying in this case. You understand that; correct?

22 A (No verbal response.)

23 MR. SILVERMAN: I think that's already --

24 THE COURT: I think it's agreed.

25 A Okay. I don't know it by reference to those PO

1 numbers.

2 THE COURT: Counsel has stipulated that it's this  
3 PO, 1101.

4 MR. BROOKS: Your Honor, can I raise an issue? I  
5 think we're going into an area that I was anticipating, and  
6 I just want to highlight it now. There is this related  
7 action by Cappseals against Direct Marketing Concepts that's  
8 pending before Judge Tauro. It's not the case that's before  
9 you today. That is an action in which Cappseals claims that  
10 Direct Marketing Concepts is liable for the debt of ITV, the  
11 issue that's before you today.

12 It appears now that we're getting into those  
13 issues that are before Judge Tauro. We're bringing in  
14 business records of Direct Marketing Concepts, presumably,  
15 to try to show that Direct Marketing concepts is liable for  
16 this debt.

17 I would suggest to you that, having brought an  
18 independent action before Judge Tauro, we had the final  
19 pretrial conference on November 2nd. Summary judgment was  
20 denied. That case will go to trial, and the liability of  
21 Direct Marketing Concepts will be determined by Judge Tauro  
22 after a trial.

23 I don't think it's appropriate for this court to  
24 be hearing evidence and perhaps being asked to make a  
25 decision about the liability of Direct Marketing Concepts

1 when that issue is pending before Judge Tauro in another  
2 action.

3 My understanding of the issue before you today is  
4 supplementary process. The issue is the assets and income  
5 of ITV that's available to satisfy the judgment, and I'm  
6 just concerned that we're going to start to try another  
7 case, and I'm going to have hours of cross-examination to  
8 establish that Direct Marketing's a separate corporation,  
9 what its business purpose is --

10 THE COURT: Let me find out from counsel where you  
11 intend to go with this.

12 MR. SILVERMAN: Thank you, your Honor. First and  
13 foremost, your Honor, this is not a business record for  
14 Direct Marketing Concepts. As you can see the document is a  
15 document Bates labeled ITV00311.

16 This is a document that was produced from the  
17 records of ITV, and it was an invoice that was received by  
18 ITV, and the purpose of this line of questioning, your  
19 Honor, is to demonstrate that ITV continues to be a thriving  
20 company, as always, is using accounts other than the  
21 accounts identified by Mr. Callahan to pay its debts and  
22 obligations.

23 The fact that it chooses to park its money and  
24 funnel this money into accounts with a name other than ITV  
25 does not mean that it can avoid its debt obligations to

1 Cappseal.

2 MR. BROOKS: That, your Honor, I guess, just  
3 proves the point that I just made, which is that's the  
4 subject matter of Judge Tauro's action.

5 THE COURT: Do you expect me to, at the end, if  
6 you got what you were -- do you intend to ask for an order  
7 that assets standing in the name of another company be used  
8 to pay this debt?

9 MR. SILVERMAN: Your Honor, this is identical, if  
10 I may explain.

11 THE COURT: Can you answer that?

12 MR. SILVERMAN: I intend to ask you to order  
13 Direct -- ITV Direct to pay the judgment using the funds  
14 that it controls. There may be accounts that are maintained  
15 under the name of a different entity, but it's ITV's  
16 accounts, and that's the point of this line of questioning.

17 They've used it to pay their own bills, including  
18 the bills that we've already discussed, the legal fees, for  
19 fees incurred by Mr. Callahan. They have zero dollars in --

20 THE COURT: Are they in Direct Marketing's  
21 accounts?

22 MR. SILVERMAN: They are, your Honor, and if I  
23 may, this is identical to the case of Aetna v Rockheld in  
24 which there was a father who was receiving his paycheck, and  
25 he was taking it, and he was putting it into an account in

1 the name of his son.

2 THE COURT: My question is though, why is this not  
3 the issue that Judge Tauro's going to be deciding?

4 MR. SILVERMAN: Because, your Honor, we're not  
5 necessarily discussing here his fraudulent conveyance and  
6 alter ego, but what we're discussing and what I'm aiming my  
7 questions at is money that is controlled by ITV and  
8 consistently controlled by ITV --

9 THE COURT: Why is that different than a  
10 fraudulent conveyance if they took their assets and put it  
11 in somebody else's name?

12 MR. SILVERMAN: Because it's still their assets,  
13 your Honor. They're still using those assets to pick and  
14 choose the bill that they want to pay.

15 THE COURT: I have to tell you, and I haven't read  
16 the complaint that you've brought with Judge Tauro, but it  
17 seems to me that if Judge -- I'm not saying that you're  
18 wrong legally as to where you end up in your ability to  
19 obtain the funds, but I am concerned that we're trying the  
20 same case in two places, and I'm very concerned about that,  
21 actually, because we have very limited witnesses here.

22 MR. SILVERMAN: Well, your Honor, I'm going to  
23 limit my questions strictly to the payment of ITV's bills  
24 and the money that it uses.

25 THE COURT: Let's assume that Direct Marketing



1 pays their bills, that checks issued by Direct Marketing are  
2 used to pay bills incurred by ITV, and that's where you're  
3 going; right?

4 MR. SILVERMAN: That is where I'm going.

5 THE COURT: All right. Why isn't that part of  
6 your claim in Judge Tauro's action, the pending action, that  
7 says Direct Marketing is responsible for the debts of ITV?

8 MR. SILVERMAN: Well, it might be a subset of our  
9 claim in that case, your Honor. However, in this case, we  
10 have a judgment against ITV.

11 ITV continues to control assets, continues to use  
12 that control to pay bills, to pay invoices. It's generating  
13 money; it's selling product; it's advertising product; and  
14 it's directing money into its bank account.

15 THE COURT: And it's doing it under the name of  
16 business, Direct Business, or it's doing it under its own  
17 name?

18 MR. SILVERMAN: Your Honor, we really haven't  
19 gotten there. The fact is, they're directing and funneling  
20 their money into accounts to avoid the payment of this  
21 judgment, but they still control those funds, and they're  
22 using their discretion to decide what bills are and are not  
23 paid.

24 THE COURT: I don't know what Direct Business is.  
25 I mean, you're in the middle of another lawsuit with Direct